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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/531,097	08/04/2005	Tal Gordon	28086-0002US1	2147
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EXAMINER				
COLON SANTANA, EDUARDO				
ART UNIT		PAPER NUMBER		
2837				
NOTIFICATION DATE		DELIVERY MODE		
04/28/2011		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

PATDOCTC@fr.com

Office Action Summary

Application No.

10/531,097

Applicant(s)

GORDON ET AL

Examiner

Eduardo Colon-Santana

Art Unit

2837

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 January 2011.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 70-85,88-103,106-118 and 121-138 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 70-85,88-103,106-118 and 121-138 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 April 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB-08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☒ Other: Detailed Action

DETAILED ACTION

1. In view of the appeal brief filed on 1/18/2011, PROSECUTION IS HEREBY REOPENED. A new ground of rejection is set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing below:

/Walter Benson/

Supervisory Patent Examiner, Art Unit 2837.

Response to Appeal Brief

2. Applicant's arguments with respect to the rejection(s) of claim(s) 70-85, 88-103, 106-118 and 121-138 under 35 U.S.C. § 103(a) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is being made.

Art Rejection Rationale

3. At the outset, the examiner notes that claims are to be given their broadest reasonable interpretation during prosecution. *In re Zletz*, 893 F.2d 319, 321, 13 USPQ2d 1320, 1322 (Fed. Cir. 1989); *In re Prater*, 415 F.2d 1393, 104, 162 USPQ 541, 550 (CCPA 1969); *In re Yamamoto*, 740 F.2d 1569, 222 USPQ 934 (Fed. Cir. 1984); *Burlington Indus. V. Quigg*, 822 F.2d 1581, 3 USPQ 2d 1436 (Fed. Cir. 1987); *In re Morris*, 43 USPQ 2d 1753, 1756 (Fed. Cir. 1997). In responding to this office action, applicants are reminded of the requirements of 37 CFR §§ 1.111 and 1.119 that applicants specifically point out the specific distinctions believed to render the claims patentable over the references in presenting responsive arguments. See MPEP § 714.02. The support for any amendments made should also be specifically pointed out. See MPEP § 2163.06.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4. Claims 70-85, 88-103, 106-118 and 121-138 are rejected under 35 U.S.C. 103(a) as being unpatentable over James G. Fitzgerald GB Patent No. 1434366 in view of Kucher et al. U.S. Patent No. 4,640,384.

Referring to claims 70, 71, 88, and 106 Fitzgerald discloses a Fire Escape system (see figure 1 and respective portions of the specification). Fitzgerald further depicts having at least one lowerable, collapsible, multiple-platform, mutually spacable, generally vertical transporter (see figure 1) arranged for selectable communication with at least one floor of a building (see Col. 2, lines 75-80) in which mutual spacing between multiple platform (1) is reduce. Furthermore, Fitzgerald discloses that the transporter system

may be suspended from a building or fireman's ladder (see Col. 2, lines 75-77). However, Fitzgerald does not explicitly describe that the transporter is suspended with a winch or hoist that is controlled to lower the transporter from at least one floor level to a level which egress of persons may safely occur. Nonetheless, Kucher et al. discloses an evacuation system having a transporter (18) which uses a winch that is driven by a motor (42 or 70) that is controlled by a controller (44 or 28) to lowered or raise the transporter (cabin 18) from one floor to a level at which a person can egress safely in case of an emergency (see figures 1-5; Col. 2, lines 35-44 and Col. 4, lines 5-8). It would have been obvious to one of ordinary skill in the art at the time of the invention to have a winch and a controller as taught by Kucher et al. within the teaching of the transporter of Fitzgerald for the purpose/advantages of facilitating coordination and rapid response time in an emergency while people enter the transporter and to lower or raise the transporter from one level to another.

As to claims 72, 89 and 107, Fitzgerald depicts having a multiple-platform transporter (see figure 1) having a plurality of stackable platforms (1) arranged to be supported on multiple generally vertical supports (2), and having a mutually space relationship, each in communication with a different level. Different level could obviously be different floors of a building.

Referring to claims 73, 74, 90 and 91, Fitzgerald depicts from figure 1, a plurality of stackable platforms (1) arranged in a

mutually collapsed relationship when not in use or after an emergency has ended (Col. 2, lines 49-51).

As to claims 75, 76, 92, 93, 108 and 109, Fitzgerald discloses that vertical supports include cables (2) which can obviously be rigid support element (i.e. chains, see Col. 1, lines 30-34).

Referring to claims 77, 94, and 110, Fitzgerald depicts a plurality of platforms (1) each having a bottom support surface and a peripheral enclosing element as shown in figure 1.

As to claims 78, 79, 95, 96, 101, 111 and 112, Fitzgerald discloses a portable collapsible transporter having a plurality of platforms in a nestable form each comprising a peripheral enclosing element that includes a wall (7) formed of fabric that is heat, fire and smoke resistant (see page 1, pars 30-75).

Referring to claims 80, 84, 97, 102, 113 and 117, Fitzgerald discloses that the transporter is provided with hoops (4) which provide stabilization of the transporter and can be building mounted (suspended, see lines 75-77). However, Fitzgerald does not teach having at least one building mounted stabilizing element cooperating with the transporter for stabilizing the transporter against lateral force. Nonetheless, Kucher et al. discloses at least one building mounted stabilizing element (beams 62, 64) cooperating with the transporter (18) for stabilizing the transporter against lateral forces such as wind or people weight. It would have been obvious to one of ordinary skill in the art at the time of the invention to have

stabilizing elements as taught by Kucher for the purpose of safety and reliability of the transporter in emergency cases.

As to claims 81, 82, 98, 99, 114 and 115, Fitzgerald and Kucher et al. addresses all the limitations of claims 71, 88 and 106 above. In addition Kucher et al. disclose having a plurality of evacuation system (12) see figure 1, in addition to state that multiple transporter (cabins 18) can be provided for each installation (12) (see Col. 3, lines 42-46 and figures 1 and 5). Furthermore, Kucher et al. discloses that the ascent and descent of each cabin may be controlled either by a panel 44 or remotely from the trailer 28 (see Col. 4, lines 5-15). It would have been obvious to one of ordinary skill in the art at the time of the invention to use the controller of Kucher et al. to positioned the transporters (cabins) at different locations of a building or surface either simultaneously or independently from other evacuation installations (12) for the purpose/advantages of making more efficient the evacuation process while meeting certain demands (i.e. 6 and 8 floor on fire) which require independent movement of some transporters in contrast to others that may be use for other emergency purposes.

Referring to claims 83, 100 and 116, Kucher et al. discloses an emergency evacuation system having a winch that raises or lowers the transporter (see Col. 2, lines 36-50). In addition states that by way of example the transporter (cabin 18) may carry two fire fighters and the ascent may be controlled by one the fire fighters (see Col. 4, lines 38-40).

As to claims 85, 103 and 118, Kucher et al. discloses that in the event the building has lost power, weight couplers (22) (see figure 1) which carry the transporter will cause spools (14) to rotate, releasing cables (20) to their full length which is about 8 feet above ground (egress) level (see Col. 3, lines 40-64).

Referring to claims 121-138, the method steps of evacuation of a building are obviously done in the product structure of claims 70-85, 88-103 and 106-118 above as taught by Fitzgerald and Kucher et al.

Examiner Notes

5. Examiner cites particular columns and line numbers in the references as applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passage and figures may apply as well. It is respectfully requested that, in preparing responses, the applicant fully consider the references in its entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eduardo Colon-Santana whose telephone number is (571)272-2060. The examiner can normally be reached on Monday thru Thursday 7:00am - 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Walter Benson can be reached on (571) 272-2227. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Eduardo Colon-Santana/
Primary Examiner
Art Unit 2837

April 12, 2011